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official capacity as Governor of the State of
 10 *California, and individually; Gustavo Velasquez, in*
his official capacity as Director of the State of
 11 *California Department of Housing and Community*
Development, and individually; and the California
 12 *Department of Housing and Community*
 13 *Development*

14 IN THE UNITED STATES DISTRICT COURT
 15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 16 SOUTHERN DIVISION
 17

18 **CITY OF HUNTINGTON BEACH, a**
 19 **California Charter City, and**
 20 **Municipal Corporation, the**
 21 **HUNTINGTON BEACH CITY**
 22 **COUNCIL, MAYOR OF**
 23 **HUNTINGTON BEACH, TONY**
 24 **STRICKLAND, and MAYOR PRO**
 25 **TEM OF HUNTINGTON BEACH,**
 26 **GRACEY VAN DER MARK,**

Plaintiffs,

v.

27 **GAVIN NEWSOM, in his official**
 28 **capacity as Governor of the State of**

8:23-cv-00421-FWS-ADS

STATE DEFENDANTS' REPLY
TO PLAINTIFFS' OPPOSITION
TO REQUEST FOR JUDICIAL
NOTICE

Date: July 27, 2023
 Time: 10:00 a.m.
 Courtroom: 10D
 Judge: The Honorable Fred W. Slaughter

Trial Date: September 10, 2024
 Action Filed: March 9, 2023

**California, and individually;
 GUSTAVO VELASQUEZ in his
 official capacity as Director of the
 State of California Department of
 Housing and Community
 Development, and individually;
 STATE OF CALIFORNIA
 DEPARTMENT OF HOUSING AND
 COMMUNITY DEVELOPMENT;
 SOUTHERN CALIFORNIA
 ASSOCIATION OF
 GOVERNMENTS; and DOES 1-50,
 inclusive,**

Defendants.

Defendants Gavin Newsom, Gustavo Velasquez, and the California
 Department of Housing and Community Development (HCD) (collectively, the
 “State Defendants”) respond to Plaintiffs’ Opposition to the State Defendants’
 Request for Judicial Notice (RJN) as follows:

Plaintiffs argue this Court should not take judicial notice of **Exhibit 1** because
 the City did not assert a federal constitutional violation in a case it previously
 brought against California’s housing laws, including the housing element law. *See*
City of Huntington Beach v. Newsom, et al., Los Angeles County Superior Court
 Case No. 30-2019- 01044945. That contention is irrelevant to this Court’s
 consideration of whether to take judicial notice. As explained in the State
 Defendants’ RJN, a federal court may take notice of adjudicative facts, including
 court records and pleadings, because they are either “generally known within the
 trial court’s territorial jurisdiction” or “can be accurately and readily determined
 from sources whose accuracy cannot reasonably be questioned.” *See* Federal Rule
 of Evidence 201(b); *see also Harris v. Cty. of Orange*, 682 F.3d 1126, 1131-32 (9th
 Cir. 2012) (internal citations omitted) (finding “documents on file in federal or state
 courts” to be undisputed matters of public record). Plaintiffs do not (and cannot)

1 contest the authenticity of the Los Angeles Superior Court’s ruling. In any event,
2 the State Defendants did not at any point in their Motion to Dismiss claim that
3 Plaintiffs asserted *federal* constitutional claims in that action. This objection is
4 unfounded.

5 Plaintiffs also falsely assert that **Exhibit 3** is a proposed amended complaint
6 that has not been filed in the state court action. Exhibit 3 is, in fact, the state’s
7 *original* Petition and Complaint filed on March 8, 2023. This Court should
8 disregard Plaintiffs’ opposition to this request for that reason alone.

9 If Plaintiffs meant to object to Exhibit 4, the State Defendants made explicit in
10 their Motion to Dismiss and RJN that *that* pleading was part of a Motion to Amend
11 filed in Orange County Superior Court on April 10. *See* State Defendants’ Motion
12 to Dismiss, ECF 45, p. 7, lines 15-17 (“On April 10, 2023, HCD and the Attorney
13 General added a claim addressing the City’s failure to adopt a compliant sixth-cycle
14 housing element; a motion to amend the complaint is pending.”); *see also* State
15 Defendants’ RJN, ECF 45, p. 2, lines 1-5 (“On April 10, 2023... HCD and the
16 Attorney General of California moved to amend their Petition and Complaint,
17 adding a claim addressing the City’s failure to adopt a complaint sixth-cycle
18 housing element.”).

19 A glance at Exhibit 4 confirms that the proposed First Amended Petition and
20 Complaint was filed on April 10. Though partially overwritten by this Court’s own
21 electronic stamp, the Orange County Superior Court’s electronic stamp is legible at
22 the top of the cover page of the Declaration of Thomas P. Kinzinger, confirming
23 that document was filed on “04/10/2023 02:06:00 PM.” And, as stated in the
24 Declaration itself, a true and correct copy of the proposed amended pleading was
25 attached as Exhibit A to that Declaration, and it is included for this Court as part of
26 Exhibit 4 to the State Defendants’ RJN. Thus, the proposed amended complaint is a
27 court record subject to judicial notice. Federal Rule of Evidence 201(b); *Harris*,
28 682 F.3d at 1131-32 (internal citations omitted). And even if no electronic stamping

1 were visible, this Court could “readily determine” this document was filed on April
2 10 by viewing the Orange County Superior Court’s public docket.

3 In any event, the State Defendants’ Motion to Amend was granted, and the
4 First Amended Petition and Complaint filed, on June 9. *See People of California ex*
5 *rel. Rob Bonta et al. v. City of Huntington Beach*, Orange County Superior Court
6 Case No. 30-2023-01312235. This Court can also readily determine this fact by
7 viewing the Orange County Superior Court’s public docket. Assuming Plaintiffs
8 intended to oppose this Court’s judicial notice of Exhibit 4, such opposition has no
9 merit.

10 For the foregoing reasons, the State Defendants respectfully request that this
11 Court grant the State Defendants’ Request for Judicial Notice in its entirety, and
12 take judicial notice of each and every exhibit included therein.

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14 Dated: June 22, 2023

Respectfully submitted,

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19 DAVID PAI
20 Supervising Deputy Attorney General

21 */s/ Thomas Kinzinger*

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